



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (EIS) for a Permit Application for Upper Llagas Creek Flood Protection Project in Santa Clara County, California

AGENCY: U.S. Army Corps of Engineers, San Francisco District, DoD.

ACTION: Notice of Intent (NOI).

SUMMARY: The U.S. Army Corps of Engineers (Corps), San Francisco District, has received a permit application for a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act (33 U.S.C. 403) from the Santa Clara Valley Water Control District to construct flood conveyance features and to deepen and widen Upper Llagas Creek (Proposed Action). As part of the permit process, the Corps is evaluating the environmental effects associated with construction and implementation of these additional flood protection measures within the communities of Morgan Hill, San Martin, and Gilroy.

The primary federal involvement associated with the Proposed Action is the discharge of fill material within federal jurisdictional areas and Waters of the United States and work within

Navigable Waters of the United States. In addition, the Proposed Action could have potential significant effects on the human environment. Therefore, the Corps will prepare an EIS in compliance with the National Environmental Policy Act (NEPA) to render a final decision on the Santa Clara Valley Water District's permit application. The Corps' decision will be to either issue or deny a Department of the Army permit for the Proposed Action. The Draft EIS is intended to be sufficient in scope to address federal, state, and local requirements and environmental issues concerning the Proposed Action and permit review.

FOR FURTHER INFORMATION CONTACT: Questions about the Proposed Action and Draft EIS should be directed to Mr. James Mazza, Corps Regulatory Project Manager, by telephone at (415) 503-6775 or by e-mail at james.c.mazza@usace.army.mil. Written comments should be addressed to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, Attn: Mr. James Mazza, 1455 Market Street, San Francisco, California 94103-1398. Information about the Proposed Action and Draft EIS can also be obtained from the San Francisco District website at www.spn.usace.army.mil.

SUPPLEMENTARY INFORMATION:

1. Project Site and Background Information. The Proposed Action is located within the southern Santa Clara County, approximately 25 miles southeast of San Jose, in the communities of Morgan Hill and San Martin. The project consists of seven reaches (4, 5, 6, 7A, 7B, 8, and 14) of Llagas Creek, East Little Llagas Creek, and West Little Llagas Creek above Buena Vista Avenue. The total length of the project area is approximately 13.1 miles; 6.1 miles of which are along the main branch of Llagas Creek, 3.3 miles along West Little Llagas Creek, and 2.4 miles along a tributary of Llagas Creek known as East Little Llagas Creek. An additional 1.3 miles of new diversion channel would be constructed along West Little Llagas Creek to Llagas Creek. On the

north, the physical limits of the project are at the creek's intersection with Llagas Road on West Little Llagas Creek in Morgan Hill and in the south, the project limits area approximately 800 feet below the creek's intersection with Buena Vista Avenue in Gilroy.

(a) Background. In 1982 the first EIS for the Upper Llagas Project was prepared by the National Resources Conservation Services (NRCS) as the lead agency. The downstream portion of the project, from the confluence with the Pajaro River to Buena Vista Avenue, was completed in 1996. However, due to the federal Endangered Species Act listing of steelhead trout in 1997, the changed environmental condition prompted an update to the existing 1982 EIS. NRCS was lacking funding to complete the upstream portion of the Project, so under the Water Resources Development Act of 1999, the project was transferred to the Corps to complete. Corps Civil Works hired an environmental consultant in 2007 to begin preparation of the current Project EIS.

(b) Purpose and Need. The overall project purpose is to manage flood risk within the Upper Llagas Creek Watershed and provide flood protection for residents, businesses, and infrastructure in the City of Morgan Hill, community of San Martin, and the sphere of influence of the City of Gilroy. The Proposed Action would increase flood protection for up to a one percent flood exceedance event in the City of Morgan Hill (Reaches 8, 7A, and 7B); assure no additional flooding is induced on Llagas Creek by the upstream modifications along the reaches downstream from Morgan Hill (Reaches 6, 5, and 4), and provides a ten percent exceedance capacity for the semi-urban area along East Llagas Creek (Reach 14).

(c) Proposed Action. The Santa Clara Valley Water District proposes 44.82 acres of temporary impacts and 3.81 acres of permanent impacts to jurisdictional waters of the United

States. Flood management features and proposed activities include widening and deepening the channel in all reaches; construction of an underground concrete tunnel beneath Nob Hill to bypass flood flows; construction of a sinuous low-flow channel, construction of access roads along the top of bank in all reaches; aquatic habitat enhancement in reaches 4, 5, 6, and 7A; installation of culverts at two tributary confluences within reach 6 and three tributary confluences in reach 14; construction of a 1.25-mile long earthen diversion channel on West Little Llagas Creek (reach 7A); exhuming of buried bridge crossings in reach 7A; replacement of culverts at four road crossing locations in reach 7B; and removal of a cinder block/brick wall at the upstream project limit and removal of sediment and debris for all culverts and beneath the Hillwood Lane bridge crossing in reach 8.

2. Alternatives. Alternatives to the Proposed Action initially being considered include:

(a) **NRCS Alternative** The NRCS Alternative would provide an increased level of flood management for urban areas, specifically: a 1 percent flood in Morgan Hill (Reaches 8, 7A, and 7B); 10-percent flood management for the semi-urban area around East Little Llagas Creek (Reach 14); and, avoid induced flooding elsewhere on Llagas Creek (Reaches 6, 5, and 4) due to upstream improvements.

(b) **Culvert/Channel Alternative**: The Culvert/Channel Alternative would eliminate the need for channel deepening and widening through residential properties, as proposed for the NRCS Alternative between West Main Avenue and West 2nd Street in Reach 8.

(c) **Reach 6 Bypass Alternative**: The Reach 6 Bypass Alternative would construct a high flow bypass channel between Reach 6 of Llagas Creek and Reach 14 of East Little Llagas Creek. The bypass channel in Reach 6 would intersect with U.S. Highway 101. Therefore, construction of new bridges under the existing north and south bound lanes of the existing U.S. Highway 101

would be required to accommodate the bypass channel. A culvert would also be required under Murphy Road. Reach 14 would need to be enlarged (deeper and wider) to a greater extent than under the other alternatives to maintain a 10-year flood capacity, while preventing induced flooding from the upstream improvements. The bypass would be designed so that no flood capacity improvements would be needed along the Llagas Creek section of Reach 6 downstream from the bypass channel or Reach 5. A hydraulic diversion structure would be required within Llagas Creek upstream to divert high flows into the bypass channel, and which would also allow the existing range of lower flows to continue downstream in Reach 6. In Reach 8 this alternative is exactly same as the design of the Tunnel Alternative, including the construction of a tunnel and the sediment detention basin.

(d) **No Action:** The “No Action” alternative is one that results in no action requiring a Department of the Army permit.

3. Draft EIS Scoping Process.

(a) The Corps is furnishing this notice to: (1) advise other Federal and state agencies, affected Tribes, and the public of our intentions; (2) announce the initiation of a 30-day scoping period; and (3) obtain suggestions and information on the scope of issues and alternatives to be included in the Draft EIS. The Corps invites comments from all interested parties to ensure that the full range of issues related to the permit request is addressed and that all significant issues are identified. We will accept written comments until 30 days after the date of publication of this notice.

(b) Significant issues to be analyzed in the Draft EIS include: aesthetics/visual quality, agricultural resources, air quality, biological resources, cultural resources, cumulative impacts, environmental justice, flood protection, geology/soils, growth inducement, land use/planning,

noise/vibration, public health and safety, public services/utilities, recreation, socioeconomics, threatened and endangered species, traffic/circulation, water resources including wetlands, and other issues identified through scoping, public involvement, and interagency coordination.

(c) The Corps will conduct an environmental review of the Proposed Action in accordance with the requirements of NEPA, 1969 as amended, (42 U.S.C. 4321 et seq.) and its implementing regulations (40 Code of Federal Regulations, Section 1500 et seq.), Corps Procedures for Implementing NEPA (33 Code of Federal Regulations, Section 230 et seq.), and the NEPA Implementation Procedures for the Regulatory Program (Appendix B of 33 C.F.R. Part 325), as well as other appropriate federal laws and regulations, policies, and procedures of the Corps for compliance with those regulations. The Proposed Action, through the Corps permit review process, will require consultation under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act. Additionally, the proposed action would involve evaluation for compliance with the Section 404 (b)(1) Guidelines of the Clean Water Act; the Magnuson-Stevens Fishery Conservation and Management Act; Water Quality Certification pursuant to Section 401 of the Clean Water Act; and certification of state lands, easements and right of ways.

4. Scoping Workshops. Previous project scoping workshops were held on October 25, 2012 and on November 14, 2001 despite scoping workshops as being optional, but recommended. No additional scoping workshops are proposed for this Project.

5. Availability of the Draft EIS. The Corps currently expects the Draft EIS to be made available to the public in December 2015. A public meeting will be held during the public comment period for the Draft EIS. Written comments will be accepted at the meeting.

Dated: September 17, 2015

Tori K. White,

Acting Chief, Regulatory Division.

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